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Community Tenure Rights and REDD+: A Review of the Oddar Meanchey Community Forestry REDD+ Project in Cambodia

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Tenure rights over land, forest, and carbon have become a contentious issue within REDD+ implementation across the tropics because local communities could be excluded from REDD+ benefits if land tenure or use and access rights are not clear. This study aims to understand and assess tenure arrangements under the first REDD+ demonstration project in Cambodia, the Oddar Meanchey Community Forestry REDD+ Project. In particular, the study explores the following questions: (1) How are tenure rights arranged in the Oddar Meanchey REDD+ Project? (2) Does the tenure regime recognise the rights of local communities to their land and its associated resources? (3) What kind of institutions are put in place to support tenure rights of local communities in the project? The author conducted in-depth semi-structured interviews with key stakeholders and complemented the analysis by participant observation and a review of policy documents and secondary literature. The major finding of this study is that the local communities in the project are still given rights to use and access forest resources, although carbon rights belong to the government. While the government retains ownership over carbon credits, it agreed that at least 50 percent of the net revenue from the sale of carbon credits will flow to participating communities.

Keywords: *Cambodia; Carbon Rights; Community Forestry; REDD+; Tenure Rights*

Besitzrechte an Land, Wald und CO2 sind zu einer umkämpften Angelegenheit in der REDD+ Implementierung in den Tropen geworden. Diese Studie versucht die Besitzregelungen im ersten REDD+ Demonstrationsprojekt in Kambodscha, dem Oddar Meanchey Community Forestry REDD+ Project, *zu verstehen und zu bewerten. Die Untersuchung analysiert dabei insbesondere folgende Fragen: (1) Wie sind Besitzrechte im Oddar Meanchey REDD+ Projekt geregelt? (2) Erkennt das Besitzsystem die Rechte von lokalen Gemeinschaften an ihrem Land und den dazugehörigen Ressourcen an? (3) Welche Institutionen werden geschaffen, um die Besitzrechte von lokalen Gemeinschaften im Projekt zu stärken? Dazu führte der Autor semi-strukturierte Interviews mit zentralen InteressensvertreterInnen, wandte teilnehmende Beobachtung an und nahm eine Analyse von politischen Rahmenbedingungen und Sekundärliteratur vor. Das Hauptergebnis der Studie ist, dass lokale Gemeinschaften im Projekt nach wie vor Nutzungs- und Zugangsrechte zu Waldressourcen haben, während die Regierung über die CO2-Rechte verfügt. Auch wenn die Regierung Eigentümerin der CO2-Zertifikate bleibt, wurde vereinbart, dass 50 Prozent der Nettoeinnahmen aus dem Verkauf der Zertifikate an die teilnehmenden Gemeinschaften fließen.*

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Schlagworte: *Besitzrechte; CO2-Rechte; Community Forestry; Kambodscha; REDD+*

Introduction

Deforestation and forest degradation account for nearly 20 percent of the total annual anthropogenic greenhouse gas (GHG) emissions, which is more than the entire global transportation sector (Intergovernmental Panel on Climate Change, 2007). As a result, Reducing Emissions from Deforestation and Forest Degradation (REDD) plays a crucial role in mitigating climate change. At the 13th Conference of the Parties (COP13) to the United Nations Framework Convention on Climate Change (UNFCCC) in 2007, the Bali Action Plan highlighted the importance of policy approaches and positive incentives for reducing emissions and introduced REDD as the financial mechanism to reduce emissions from deforestation and forest degradation in developing countries (Huettner, Leemans, Kok, & Ebeling, 2009; Miles & Kapos, 2008). At the COP14 of the UNFCCC in Poznan, Poland (2008), the concept of REDD+ was introduced. Adding to REDD, REDD+ includes the role of conservation, sustainable management of forest, and enhancement of forest carbon stock. This discussion was continued at the COP15 in Copenhagen in 2009 (UNFCCC, 2009). Even though the Copenhagen Accord is not an internationally binding agreement, the parties agreed on the urgent need to mobilise financial resources from developed countries for REDD+. At the COP16 in Cancun in 2010, specific policies and mechanisms to implement REDD+ were further defined as a result of long collaborative actions, and developing countries were encouraged to contribute to mitigate climate change through REDD+ based on their capabilities and national circumstances (UNFCCC, 2010). The COP16 agreement on REDD+ stressed the importance of tenure rights of local and indigenous communities in the process of developing and implementing REDD+ mechanisms.

Even though the discussion on the precise design of the future REDD+ mechanism is ongoing, REDD+ projects are being planned and implemented across the tropics, particularly in countries with high forest cover and high deforestation rates (Phelps, Webb, & Agrawal, 2010). However, REDD+ implementation generally faces major methodological, institutional, and governance challenges (Boucher, 2008; Scherr & Sthapit, 2009). Furthermore, REDD+ initiatives might affect the rights, livelihoods, and land tenure of forest dependent and indigenous communities negatively (Brock-

haus, 2009; Cotula & Mayers, 2009; Griffiths, 2008; Phelps et al., 2010). Local and indigenous community engagement was fiercely debated in Copenhagen at the COP15 and recently at the COP16 in Cancun. Numerous articles (e.g. Brown, Seymour, & Peskett, 2008; Cotula & Mayers, 2009; Griffiths, 2008; Larson, 2011; Sikor et al., 2010) have been published that express concern of REDD+ impacts on indigenous and local communities in tropical countries where hundreds of millions of people depend on forest resources for their livelihood. If REDD+ is not well designed, forest dependent communities may be deprived of their rights over land and resources and may be physically displaced from forests. In addition, some authors (e.g. Cotula & Mayers, 2009; Engel & Palmer, 2008; Sunderlin, Hatcher, & Liddle, 2008) argue that REDD+ overlooks the tenure rights and engagement of forest dependent and indigenous peoples. In particular, concern over local or indigenous community participation has been raised (Cotula & Mayers, 2009; Sunderlin, Hatcher, & Liddle., 2008) presuming the lack of early participation in REDD+ project design may undermine REDD+ implementation. Thus, it is largely recognised that the success of REDD+ will depend on the support of forest communities and indigenous peoples (e.g. Cotula & Mayers, 2009; Hatcher & Bailey, 2009; Yeang, 2010).

REDD+ in Cambodia

In the last decade, Cambodia, Indonesia, Myanmar, and Papua New Guinea have reported large forest losses. Cambodia's annual deforestation rate was estimated at up to 1.3 percent over the period between 2000 and 2010 (Food and Agriculture Organisation [FAO], 2010). Deforestation has posed challenges for Cambodia for decades. Yet, the REDD+ mechanism can help Cambodia achieve sustainable forest management and halt deforestation while delivering climate change mitigation benefits (Poffenberger, 2009). Currently, several REDD+ demonstration projects are being designed and implemented in Cambodia. The Oddar Meanchey Community Forestry REDD+ Project is implemented in Oddar Meanchey province, which is located in the northwest of the country, covering over 64,318 hectares of forest. Some further demonstration projects include the Siema Protection Forest REDD+ Project which covers 187,000 hectares and is located in the north-eastern part of Cambodia (Evans, 2010; Pearson,

Petrova, Harris, & Brown, 2008; Yeang, 2010); the REDD+ Carbon Project in Prey Long covering 520,000 hectares of forest in Kampong Thom province and located in the centre of Cambodia (Theilade & Schmidt, 2011); the Northern Plains REDD+ Project in Preah Vihear province covering more than 500,000 hectares of forest and located in the northern plains of the country (Rainey, Heng, & Evans, 2010); the Southern Cardamom REDD+ Pilot Project located in Koh Kong province in south-western Cambodia (Beukering, Leeuw, Grogan, & Hansfort, 2009); and the Siem Reap Community Forestry REDD+ Project covering over 15,649 hectares of forest and located in the north-west of the country (REDD+ Community Carbon Pools Program, 2012).

The Oddar Meanchey REDD+ Project is the first and most advanced of all REDD+ demonstration projects in Cambodia as it is currently under the dual validation for both the *Verified Carbon Standard* and the *Climate Community and Biodiversity Alliance*. The Royal Government of Cambodia's Forestry Administration developed the Oddar Meanchey REDD+ Project along with *Pact* and *Terra Global Capital* (TGC). The project was approved by the Forestry Administration in November 2007 and was officially endorsed by the Prime Minister of Cambodia under the Government Decision No. 699 on May 26, 2008. The project involves 13 community forestry groups, comprised of 58 villages and 10,036 households, which protect 64,318 hectares of forest land in the north-western province of Oddar Meanchey. The project is expected to seize 8.3 million tonnes of CO_2 over 30 years and provide sustainable financing to local forest protection efforts, while serving as a learning laboratory to support national REDD+ development.

However, the concept of REDD+ is still relatively new to Cambodia as well as to other tropical countries, and the issue of tenure rights over forest and carbon have not yet been carefully investigated. In Cambodia, the national REDD+ roadmap is still at a stage of development and in order to achieve effective implementation, local and indigenous communities have to be taken into consideration. Additionally, the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), UN-REDD guidelines on social and environmental safeguarding, and other relevant international conventions signed by Cambodia need to be respected. Yet, the inclusion of indigenous tenure rights into REDD+ projects is still in progress.

Methodology

This study aims to generate information and knowledge on how tenure rights over forest and carbon have been addressed in the Oddar Meanchey REDD+ Project. Although a number of studies about the project have been conducted (e.g. Pasgaard, 2012; Poffenberger, 2009; Ty, Sasaki, Ahmad, & Zainal, 2011), they have provided little insight into how tenure rights issues have been secured. The study also aims to contribute to on-going debates on the influence of REDD+ on tenure rights of local communities and inform policy makers involved in developing social safeguards in the national REDD+ strategy. In particular, the study explores the following questions: (1) How are tenure rights arranged in the Oddar Meanchey REDD+ project? (2) Does the tenure regime recognise the rights of local communities to their land and its associated resources? (3) What kind of institutions and systems are put in place to support tenure rights of local communities in the project? The questions above are based on criteria developed by Cotula and Mayers (2009) and Davis et al. (2009). Accordingly, REDD+ projects should be based on (1) a land tenure system that is non-discriminatory and provides clear rights over land and its associated values, (2) legal recognition of indigenous peoples' rights to land, (3) clearly defined and addressed carbon rights, and (4) institutions and systems that uphold the rights of forest dependent people.

The study combines quantitative empirical analysis and qualitative investigation. Scientific publications and grey literature on climate change, REDD+, and tenure rights have been reviewed. Additionally, the *REDD Plan Idea Note* (R-PIN) of Cambodia, submitted to the *Forest Carbon Partnership Facility* (FCPF) was taken into account. The R-PIN offers a basic understanding of tenure rights issues of Cambodia. Furthermore, in-depth semi-structured interviews were conducted with key respondents from the government, civil society, private sector, local communities, and donor agencies involved in the Oddar Meanchey REDD+ Project.[2]

Table 1: Number of Key Respondents

Government	5
Civil Society	2
Private Sector	1
Local Communities	10
Donor Agencies	2
Total	20

Source: Author's Compilation

2 Five respondents were from the Forestry Administration of the Ministry of Agriculture, Fishery and Forestry that is designated as the National REDD Focal Point, and the Climate Change Department of the Ministry of Environment that acts as the UNFCCC National Focal Point for Cambodia. Two respondents from civil society (*Pact Cambodia* and the *Children's Development Association* (CDA)), one respondent from the private sector (*Terra Global Capital*), 10 community representatives, and two donor agencies (*Danish International Development Agency* (DANIDA) and the

From Community Forestry to REDD+ in Oddar Meanchey

Oddar Meanchey province shares 224 kilometres of border with Thailand and within Cambodia, it borders on Siem Reap, Banteay Meanchey, and Preah Vihear provinces. The province was one of the remaining strongholds of the post-1979 Khmer Rouge guerrilla force and was only formally established in 1999. The province's 6,158 square kilometres are divided into five districts: Samraong, Banteay Ampil, Chong Kale, Anlong Veng, and Trapeang Prasat. The total forest cover of the province is officially 68.8 percent of the provincial area or 457,131 hectares, and there are four forest types, namely, evergreen forest, semi-evergreen forest, deciduous forest, and open forest (Ty, Sasaki, Ahmad, & Zainal, 2011). The main causes of deforestation and forest degradation in the project area can be identified as the global commodity and investment market on the international level, economic land concessions on the national level, and forest land encroachment by military and migrants, agricultural expansion, illegal logging, forest fire, and fuel-wood extraction on the sub-national level (Poffenberger, 2009).

The Oddar Meanchey REDD+ Project involves 13 community forestry sites located in the north-western part of Oddar Meanchey province. Originally, the project started out as a community forestry REDD project that was initiated by the US-based NGO *Community Forestry International* (CFI). In its current REDD+ form, the project aims to protect 67,853 hectares of forest and thereby enhance storage and sequestration of carbon (Bradley, 2009). The project's target is to sequester some 8.3 million tonnes of carbon over the next 30 years. The primary goals are to successfully enhance storage and sequestration of carbon in the natural forests of north-west Cambodia under the emerging REDD+ initiative and to assess a climate-related payment mechanism for forest conservation. The secondary goals include supporting the implementation of the national community forestry programme, securing long-term tenure rights for forest dependent communities, responding to rural livelihood needs, conserving biodiversity, and supporting hydrological regimes (Poffenberger, De Gryze, & Durschinger, 2009).

The *Danish International Development Agency* (Danida), the *UK Department for International Development* (DFID), the *New Zealand Agency for International Development*

Clinton Climate Initiative (CCI)) were interviewed.

(NZAID), and the *Clinton Climate Initiative* (CCI) are the main funders for this project. The project partners include *Terra Global Capital* (TGC), a San Francisco-based carbon development company which offers technical advice for project development, and local NGOs, namely the *Children's Development Association* (CDA) and the *Monks Community Forestry Association* (MCF)[3] as well as local authorities in Oddar Meanchey province.

Community Tenure Rights in the Oddar Meanchey REDD+ Project

In Cambodia, forest lands belong to the Forestry Administration (FA) of the Royal Government of Cambodia, but local communities are legally granted use and management rights in the project areas. According to the 2002 Forestry Law of Cambodia, local communities are guaranteed customary user rights of forest products and by-products and do not require permits for these uses. The traditional user rights include collection of dead wood, picking wild fruits, collecting honey, tapping resin trees, and collecting other forest by-products. The local communities can also harvest timber for household use, to build houses, stables for animals or fences, and to make agricultural instruments. To legitimise their management rights, local communities entered into concrete community forestry agreements with the FA (see Table 2).

Community access and user rights to forest resources in the project areas are guaranteed under a 15-year renewable agreement between the FA and the local *Community Forestry Management Committee* (CFMC). The CFMC is considered as the key local institution for upholding the rights of forest dependent people in the project. Community forestry members elect the CFMC for a five-year period, and the formation of the CFMC is facilitated by local authorities or commune councils as well as local FA officials. The candidate who has gained the most votes is nominated as the CFMC leader. Generally, the structure of the CFMC (Figure 1) is comprised of a chief, secretary, deputy, and members who are responsible for bookkeeping, information dissemination, tree planting, and patrolling. The CFMC is responsible for the overall management of the community forests including adopting community forestry regulations, preparing the community forestry management plan, coordinating with FA

3 The CDA is a local NGO based in Oddar Meanchey province that has been implementing community forestry projects since 2002. The MCF has been formed by a charismatic Buddhist monk in Oddar Meanchey province who supports forest protection activities by coordinating closely with local authorities and communities in the project.

Table 2: The 13 Community Forestry Groups in the Oddar Meanchey REDD+ Project

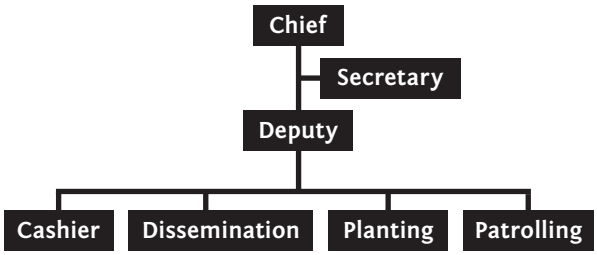
NO	GROUP NAME	DISTRICT	SIZE (HA)	ESTABLISHED	APPROVED
1	*Angdoung Bor*	*Banteay Ampil*	6,114	2004	2008
2	*Chhouk Meas*	*Samraong*	383	2004	2008
3	*Dung Beng*	*Banteay Ampil*	1,843	2004	2008
4	*Ou Yeay Kaov*	*Samraong*	960	2004	2008
5	*Phaav*	*Trapeang Prasat*	2,025	2008	2011
6	*Prey Srorng*	*Anlong Veng*	6,344	2004	2008
7	*Prey Srors*	*Banteay Ampil*	1,605	2004	2008
8	*Ratanak Ruka*	*Samraong*	12,733	2004	2008
9	*Rolus Thom*	*Samraong*	6,443	2008	2011
10	*Romdoul Veasna*	*Samraong*	6,009	2004	2008
11	*Samaky*	*Anlong Veng*	1,079	2004	2008
12	*Sangkrous Preychheu*	*Anlong Veng*	4,151	2001	2008
13	*Sorng Rokavorn*	*Samraong*	18,164	2001	2008

Source: Author's Compilation From Various Project Reports

and local authorities, resolving conflicts in the community forestry areas, reporting to local FA officials on illegal forest activities, and protecting the community forest.

The forest resources in the project areas are granted for household use only, while commercial use is strictly forbidden. For example, local communities can collect firewood, wild fruits, and other non-timber forest products from these areas. The timber harvesting for household use in the project area is not forbidden, however, it must be approved by the CFMC beforehand.

Figure 1: General Structure of the Community Forestry Management Committee



Source: Author's Compilation

Like most countries in the world, Cambodia did not have any policy or law to recognise ownership over forest carbon credits before the approval of REDD+ projects. In order to meet international standards, it is important to ensure the clarification of rights to carbon credits that are generated in the project. In this first REDD+ demonstration project, carbon rights are not specifically defined, but the Government Decision No. 699 illustrates that the FA retains ownership of forest carbon credits and plays the role of the carbon credit seller for the project. The

Government Decision No. 699 states that revenues from carbon credit selling from the project will be used to (1) improve the forest quality, (2) provide maximum benefits to local communities who are participating in the project, and (3) study the new potential area for new REDD+ projects in Cambodia. The FA agreed that at least 50 percent of the net income (after project expense) will flow to participating communities in the project and the *Technical Working Group on Forestry and Environment* was nominated to channel payments during the first five years (Bradley, 2011). This working group represents the government-donor coordination initiative for supporting and strengthening development activities within forestry and environment, especially between the FA, the Ministry of Environment, and the donors. Revenue flows from the project have been defined, yet, a more concrete plan for the revenue distribution will require the broad consensus and approval by the project working group and possibly higher level of government. The Oddar Meanchey REDD+ Project will directly benefit local communities in a number of ways as it secures management rights over forest resources through a 15-year stewardship agreement with the government and guarantees revenues from carbon credit selling for forest protection and restoration activities such as forest fire control, forest patrolling, and project monitoring (Yeang, 2010). These activities shall also generate employment for the local communities, and the net revenues shall be used for community development including infrastructure development such as road, health care centre, and school construction as well as alternative livelihood projects (e.g. bee keeping project, microfinance, and agricultural intensification).

Discussion and Conclusion

The Oddar Meanchey REDD+ Project developers gave priority to securing land and resource tenure of local communities in the project. To secure these rights, the FA granted the 13 communities a 15-year renewable community forestry agreement to officially manage their forest areas. However, the government still retains ownership over forest lands while the local communities have been formally granted use and management rights of forest resources. The study illustrates that the Oddar Meanchey REDD+ Project has not ignored land and forest tenure rights of local and

indigenous communities and contributes to the legalisation of management and use rights of the communities over forest resources.

In general, the existing laws and policies governing the forestry sector in Cambodia recognise customary rights of local communities. However, to ensure the certification of the Climate Community and Biodiversity Alliance standard for the project, it required further clarifying customary and legal tenure rights of indigenous and local communities in the project and particularly the ways in which the project contributes to addressing tenure right issues (Yeang, 2010). Most of the community forestry members and representatives acknowledged that after tenure rights had been secured, the tensions between communities and economic land concession companies have diminished, and illegal logging inside the community forestry sites has decreased, compared to the period when the community forestry sites were not legalised. In addition to securing tenure rights over land and forest resources of the local communities in the project, it is essential to continue to enforce these tenure laws and regulations in order to avoid overlapping claims to forest land in the project area.

Under Government Decision No. 699, which was specifically adopted for the Oddar Meanchey REDD+ Project, carbon credits belong to the government. The benefits from carbon credits are not included in the customary rights that are guaranteed by the community forestry agreements with the FA. This means that the REDD+ component of the project could transfer benefits and tenure rights to carbon stocks away from the community and toward the central government. In the Oddar Meanchey REDD+ Project, this problem has been addressed by the government agreeing that at least 50 percent of the net revenues from the sale of carbon credits in the project will flow to participating communities. But this kind of promise by the government is less secure than the 15-year-contracts providing user rights to the community forestry projects, with the latter mandated by the Forestry Law and Community Forestry Sub-Decree. If the Cambodian government intends to implement further REDD+ projects in the country, carbon rights have to be institutionalised in a stronger way, since there is a strong link between carbon rights and benefit sharing. In particular, Government Decision No. 699 should be reviewed in order to award communities rights to revenues from carbon credit sales.

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